THE HON'BLE SRI JUSTICE NOUSHAD ALI

Writ Petition No.27336 of 2005

BETWEEN:

K. Barnabas

…. PETITIONER

And

1. The Secretary and Special Officer, Vijayawada Mnicipal Corporation, Vijayawada, Krishna District, and others.

…. RESPONDENTS

-

-

ORDER:

Heard Sri Kanakamedala Ravindra Kumar, learned counsel appearing for the petitioner and the learned Assistant Government Pleader for Irrigation and Command Area Development for respondents.

2. "Christian Assembly" is said to be an unregistered association and the petitioner claims to be its Secretary. The association is said to have been formed for the purpose of congregating people professing Christian religion. Land measuring 669 Sq. yds situated in NTS No.627/A (Left Bank of Eluru Canal Road) Ward No.8, Nadar Street, Baptist Nagar, Vijayawada, Krishna District, was given in lease to the petitioner by proceedings of the Superintending Engineer, Vijayawada Circle, Vijayawada, the 3rd respondent herein in the year 1968 for constructing a prayer hall. Accordingly a prayer hall was constructed duly obtaining construction permission from the municipality. The lease expired on 7.05.1978 and the same was not renewed thereafter. Later in 1983, 244 sq. yards was taken over for the purpose of road widening, leaving 422 sq. yards with the petitioner. The petitioner continued to be in occupation of 422 sq. yards land on payment of lease amount. The 2nd respondent has accepted the lease amount up to October, 1999. The petitioner submitted a representation for extension of lease. After considering the said representation, in the light of a report submitted in that regard by the Superintending Engineer, Vijayawada Circle, Vijayawada, the State Government appears to have taken a decision to handover certain lands including the subject land to VGTM-UDA for comprehensive development

of the city. The State Government issued orders in G.O.Ms.No.101 Irrigation and Command Area Development, (PW LA1) Department, dated 3.06.2004 instructing not to extend the existing leases any further. Therefore the request of the petitioner for granting the lease has been rejected by means of the impugned order.

3. The learned counsel for the petitioner Sri Kanakamedala Ravindra Kumar would submit that the land was leased out for the specific purpose of constructing a prayer hall for the benefit of people professing Christian religion. The petitioner was lawfully inducted and has been paying the lease amount until recently. He would contend that there are leases granted in favour of other religious institutions; and temples have come out on the banks of the canal. The counsel would submit that there is no justification in refusing permission to the petitioner even as other temples are allowed to continue.

4. The facts as to the leasing of land in favour of “Christian Assembly” and construction of prayer hall on payment of lease up to 1999, are not in dispute. The respondents received the lease amount notwithstanding the expiry of lease in the year 1978. It is the admitted case of the respondents that temples have come up on the left bank of Bandar Canal, which is also under the control of the Irrigation Department. It may be true that the petitioner cannot seek lease as a matter of right. It is also true that the land might be required for the purpose of development of the city. Fact, however, remains that no proposals/scheme have been mooted either by the State Government or by the VGTM-UDA for the development of the city so far. In that view of the matter, ends of justice would be met if the request of the petitioner is considered afresh having due regard to the facts existing as on date.

5. For the aforesaid reasons, I deem it appropriate to dispose of the

writ petition, without expressing any opinion on merits, permitting the petitioner to submit a fresh representation to the Executive Engineer, the 4th respondent herein, within a period of four weeks from the date of receipt of a copy of this order and that on such filing, the 4th respondent is directed to consider the said representation and take appropriate decision expeditiously, preferably within a period of eight weeks thereafter. The 4th respondent is at liberty to seek appropriate instructions from respondents 2 and 3 before taking the decision.

6. The writ petition is accordingly disposed of. No costs.

7. In view of disposal of writ petition, W.P.M.P.No.35111 of 2005 is dismissed as unnecessary.

_____

NOUSHAD ALI, J

5th July, 2012
Js.